

BOARD OF OVERSEERS OF THE B
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NOT TO BE PUBLISHED IN THE MAINE REPORTER

STATE OF MAINE

SUPREME JUDICIAL COURT
Docket No. BAR-96-8

BOARD OF OVERSEERS OF THE BAR)

v.)

ALBERT P. C. LEFEBVRE)

DECISION AND ORDER

The information filed by the Board of Overseers of the Bar (Board), pursuant to Maine Bar Rule 7.2(b)(7), against Albert P. C. Lefebvre was heard by the Court on November 21, 1996. The Board was represented by Assistant Bar Counsel, Karen G. Kingsley, Esq. Lefebvre was present and represented by John C. Bannon, Esq. By its two-count information, the Board alleges that Lefebvre has conducted himself in a manner unworthy of an attorney and has violated Maine Bar Rules and seeks his suspension or disbarment from the practice of law in the State of Maine. The Board also seeks the reimbursement to the Board of its actual costs in this matter in the amount of \$585.50 and such other relief as the Court deems reasonable. By a stipulated order, written summations were submitted to the Court by the parties.

The alleged violations contained in Count I of the information arise from Lefebvre's legal representation of Muriel Crocker, the personal representative of George E. Brunelle, deceased, in the administration of the

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MAINE JUDICIAL COUNCIL

estate of said George E. Brunelle. The alleged violations contained in Count II of the information arise from the extensive litigation relating to a boundary dispute between Lefebvre, his wife, Celine M. Lefebvre, and their neighbors, specifically that certain case entitled *Jane A. Rice v. Albert P. C. Lefebvre and Celine Lefebvre*, in the Superior Court, York County, Docket No. CV-90-838.

The parties filed a stipulation as to certain facts relating to each of the counts. In addition, at the hearing on this matter each of the parties introduced in evidence a number of exhibits relating to the counts. The Court heard the testimony of Muriel Crocker, the personal representative of the estate of George E. Brunelle; Attorney Lloyd P. LaFountain, who Muriel Crocker consulted for legal advice relative to her concerns about Lefebvre's legal representation in the administration of said estate; Attorney S. James Levis, who represented Jane Rice and her now deceased husband, Robert Rice, in the extensive litigation arising out of the boundary dispute between the Lefebvres; and, *inter alia*, the Rices and Albert P. C. Lefebvre.

The parties stipulated to the following facts, and based on that stipulation, the Court finds that:

1. Arthur P. C. Lefebvre has been a member of the Bar of the State of Maine since 1983 and at all times relevant hereto was engaged in the practice of law at Biddeford and was subject to the Maine Bar Rules.
2. Prior to the complaints giving rise to the present proceedings, Arthur P. C. Lefebvre has not been the subject of attorney discipline pursuant to the Maine Bar Rules.

COUNT I

The thrust of the allegations in Count I of the information are that the attorney fee Lefebvre paid himself from the estate of George F. Brunelle violated M. Bar R. 3.3(a) (providing, *inter alia*, that “[a] lawyer shall not enter into an agreement for, charge, or collect an illegal or excessive fee” and setting forth those factors to be considered in determining the reasonableness of a fee); his purchase of a safe from the estate violated M. Bar R. 3.4(f)(2)(ii) (“A lawyer shall not directly or indirectly purchase property at a probate, foreclosure or judicial sale in action or proceeding in which the lawyer . . . appears as attorney for a party”); and his method of record keeping and accounting violated M. Bar R. 3.6(e)(2)(iii) (“A lawyer shall . . . [m]aintain complete records of all funds, securities and other properties of a client coming into possession of the lawyer and render prompt and appropriate accounts to the client regarding them”).

With reference to Count I of the information, the Court finds that:

(1) At the time of the death of George Brunelle on May 18, 1992, his estate consisted of \$96,344.42 in cash, interest in real estate valued at \$60,184, and personal property in the amount of \$2,000.

(2) George Brunelle left a will, drafted by Lefebvre, providing, *inter alia*, the appointment of his sister, Muriel Crocker, as his personal representative, devising his interest in all real estate to his sister, Annette, the co-owner of the real property, and making a full disposition of the remainder of his estate.

(3) Muriel Crocker did not know Lefebvre prior to the death of

George Brunelle. She was inexperienced in legal matters and had not previously served in the capacity of a personal representative in a probate proceeding. As a result of information furnished to Muriel Crocker that Lefebvre had her brother's will in which she was named as personal representative, she contacted Lefebvre and it was agreed he would represent her in that capacity in the administration of the estate. In response to her inquiry as to his legal fees for such services, Lefebvre advised her it would be \$5,000.

(4) In due course the monies from Brunelle's various accounts were placed in an estate checking account at Biddeford Savings Bank. Lefebvre asked Crocker to sign five blank checks and suggested he also be authorized as co-signer of checks on that account. Crocker signed five blank checks and authorized Lefebvre as co-signer.

(5) A document prepared by Lefebvre, entitled "Estate of George E. Brunelle," signed by Muriel Crocker, as personal representative, and stating that "Distribution of checks January 27, 1993, as above" depicting, *inter alia*, a "0" balance in that estate, is the only document presented to Muriel Crocker purporting to be the final accounting for and distribution of the assets of said estate. Because this document reflected variances in amounts that Muriel Crocker understood had been represented to her by Lefebvre concerning the amounts to be finally distributed to the residual legatees of the estate and Lefebvre's attorney fees, she requested clarification from Lefebvre and all checks representing disbursements from the estate. When she received no response to her requests, she sought the legal services of

Lloyd P. LaFountain to assist her in securing all the records relative to the estate. Lefebvre did not respond to LaFountain's letter stating that Muriel Crocker's primary concern was the \$7926.41 for attorney fees reflected in the final account and requesting that he furnish a detailed statement setting forth his legal services, as well as other records of the estate account.

Muriel Crocker, with the assistance of LaFountain, eventually secured from the bank copies of the canceled checks representing disbursements from the estate. This disclosed that two of the original five checks signed in blank by Crocker, one in the amount of \$2,504.22 and the other for \$2,750.15, designating the payee as "Cash", were endorsed by and deposited to the account of Lefebvre. At a later time, at the request of Lefebvre, Crocker had signed two additional checks in blank. One of these checks designated the payee as Lefebvre in the amount of \$6,000 with the notation "Partial Legal Fees", the other in the amount of \$2,124.85 designated the payee as "Cash" and with the notation "Close account-legal fees" was deposited to Lefebvre's personal account. This latter check was dated approximately one week after what purported to be the January 27, 1993, final accounting for and distribution of the estate depicting a zero balance in that estate. The total of the legal fees Lefebvre had actually paid himself was \$13,379.22, a figure nowhere depicted by the purported accounting.

(6) Muriel Crocker filed a complaint against Lefebvre with the Board and, pursuant to M. Bar R. 9, a petition for a fee arbitration. The fee arbitration panel made the following findings and decision:

1. There was no contract between the parties regarding payment for Respondent's legal services in the matter of the Estate of George E. Brunelle. Petitioner stated that her initial understanding was the fee would not exceed \$5,000.00; she later was told that a fee of 5% of the cash balance in the estate bank account on a date certain, or \$7,926.41, was standard and customary. Respondent stated that he had charged an hourly rate of \$100.00 from May 18, 1992 until January 1993, when his hourly rate increased to \$110.00. He has recently prepared a statement for time and expenses totaling \$14,480.24. Respondent acknowledges having disbursed \$13,379.22 from the estate to himself for fees and expenses.

2. Respondent's representation that a fee for legal services in a probate matter can be based upon a percentage of the gross estate is contrary to law. See Estate of Davis, 509 A.2d 1175 (Me. 1986)

3. There were no novel or difficult questions in settling this estate, although there were disputes over certain household items among the beneficiaries.

4. A fair and reasonable compensation for legal services is \$3,000.00 with out-of-pocket expenses as enumerated in Respondent's February 24, 1994 statement of \$36.25, for a total of \$3,036.25.

(7) Lefebvre has repaid the estate the sum of \$10,342.97.

(8) Although it was initially agreed between Lefebvre and Muriel Crocker that for \$250 he could purchase a safe that was believed to be a part of the estate, in the course of the probate proceedings Annette claimed ownership. It was ultimately agreed, after negotiations with Annette's attorney, that Lefebvre would pay \$200 for the safe, which amount would be placed in the estate in exchange for the other beneficiaries' acquiescence to Annette's claim of ownership of a desk. There is no dispute that this sum was credited to the estate.

(9) Although there is no dispute as to the funds, property or

securities of the estate, the first time Muriel Crocker received a complete accounting for that property was as a result of her complaint to the Board and her petition for arbitration of Lefebvre's attorney fees.

DISCUSSION AND CONCLUSION

At the hearing, and reiterated in his written summation, Lefebvre offers a number of explanations for his conduct with relation to the allegations contained in Count I that can be summarized as follows: His method of accounting was due in part to his lack of familiarity with the use of the computer in his office that resulted in the loss of such records and required his attempted reconstruction, largely dependent on his memory of costs and expenditures, in preparation for the hearing before the Fee Arbitration Panel; that he regarded himself as the Brunelles' "family lawyer", and accordingly, when he first began representing Muriel Crocker he carried over the same informal billing procedures he had used with other Brunelle family members.

Notwithstanding the absence of evidence that any other document was presented to and signed by Muriel Crocker, other than the one at issue purporting to be a final accounting for and distribution of the estate, he characterizes the document not as an "accounting at all" but a pre-closing worksheet designed to illustrate expenses that still needed to be paid and how the residuary beneficiaries' distributions would be calculated, plus a "hypothetical 5% legal fee." Further, that he had explained to Muriel Crocker the estate balance was not zero as depicted, because he had left a sum in the estate to cover any late expenses and whatever legal fee was

owed by the time the estate was actually closed. Muriel Crocker testified there had been no such conversation.

As to those checks designating the payee as "Cash" deposited to Lefebvre's personal account, he states that this designation made his bookkeeping simpler and offers no explanation why, in contrast, the \$6000 check designated Albert P. C. Lefebvre as payee.

As to the amount of his legal fees, Lefebvre's explanations included the complexity of handling the estate resulting from disagreements among the beneficiaries; Muriel Crocker's imperfect memory and failure to request an accounting; the family's familiarity with the Napoleonic Code and previous probate proceedings resulting in their insistence his legal fee be based on a percentage of the gross estate notwithstanding that he was "aware of a case" holding that percentage fees were no longer allowed in estate matters. He acknowledges that the first time he prepared an itemized bill for his services was in response to Muriel Crocker's petition for arbitration of his attorney fees. He states his failure to respond to LaFountain's letter was caused by his "wariness" of LaFountain based on LaFountain having been a former political adversary of Lefebvre and his hope that Muriel Crocker would contact him directly about her concerns.

He points out that he had no economic incentive to overcharge the estate because of the generous retirement he receives from previous federal employment and his feeling of a moral imperative to assist members of the Franco-American community, such as Muriel Crocker and the beneficiaries of the estate. Further, that his production of a more accurate record was

prompted by the fact that the issue was not payment, but a challenge to his honesty, as he felt the fee arbitration petition to be. Muriel Crocker testified she had never heard of the Napoleonic Code, had no previous familiarity with probate procedures and had relied completely on Lefebvre as to the handling of the estate.

Although he acknowledges he had spoken to Muriel Crocker about purchasing the safe, he states he had not intended to purchase it until the estate was closed and his representation had ended. In any event, he argues, this plan became moot when Annette claimed ownership and the matter was finally settled after negotiation with her attorney and the acquiescence of the beneficiaries to that settlement.

Lefebvre stated that with the assistance of another attorney he has installed and implemented accurate records of time he spends on any legal matters for a client; has abandoned the practice of designating his attorney fees as "Cash" in any form; and no longer requests he be a co-signer with a personal representative on checks for disbursements of funds from any estate in which he provides legal services. He acknowledges that it was "an error of judgment" on his part not to respond to LaFountain's letter.

In reviewing the entire record relating to Count I of the information, the Court is unable to give the credibility to Lefebvre's explanations for his conduct that he seeks. The Court concludes that the Board has established by a preponderance of the evidence that in the course of his legal representation of Muriel Crocker Lefebvre violated Maine Bar Rules 3.3(a), 3.4(f)(2)(ii) and 3.6(e)(2)(iii) and conducted himself in a manner unworthy

of an attorney.

COUNT II

The thrust of the allegations contained in Count II of the information are that following the decision of the Superior Court in the matter of *Rice v. Lefebvre, et al.*, Docket No. CV-90-838, York County, and the affirmance of that decision by the Law Court, Lefebvre engaged in conduct that violated Maine Bar Rule 3.2(e)(1) ("A lawyer possessing unprivileged knowledge of a violation of the Maine Bar Rules that raises a substantial question as to another lawyer's honesty, trustworthiness, or fitness as a lawyer in other respects shall report such knowledge to a tribunal or other authority empowered to investigate or act upon such violation."); Maine Bar Rule 3.2(c)(2) ("A lawyer shall not knowingly or carelessly make false accusations against a judge or other adjudicatory officer."); and Maine Bar Rule 3.7(a) ("A lawyer shall not file a suit, assert a position, delay a trial, or take other action on behalf of a client when the lawyer knows, or should know, that such action would merely serve to harass or maliciously injure another.").

With reference to Count II of the information, the Court finds that:

(1) By its decision in *Rice v. Lefebvre, et al.*, following a nonjury trial, the trial court found that Lefebvre had deliberately trespassed on the plaintiff's property, caused her fence to fall over, and harassed her, for which the court awarded treble damages and attorney fees, pursuant to 14 M.R.S.A. § 7552 (1980 & Supp. 1996), and that punitive damages were necessary and fully warranted given the "very malicious conduct" of Lefebvre. The court awarded to Rice the sum of \$61,250, including

compensatory and punitive damages, attorney fees and costs, plus statutory interest. By its decision dated July 11, 1994, the Law Court determined, *inter alia*, that contrary to Lefebvre's contention on his appeal from the judgment entered in the Superior Court, he did not suffer violation of any claimed constitutional protections; that the trial court's award of damages, attorney fees and costs to Rice was fully warranted and affirmed the judgment of the trial court. The Law Court determined the appeal was frivolous and imposed sanctions on Lefebvre pursuant to M.R. Civ. P. 76(f).¹

(2) Levis represented Rice in said action, as he had in all previous litigation involving the Rices and the Lefebvres, and Lefebvre represented himself and his wife, as he had in all previous such litigation. The Rices and the Lefebvres owned adjoining lots in Biddeford. The boundary between the

¹ The Court does not address the allegations referenced in Count II relating to Lefebvre's three appeals to the Law Court in connection with this litigation. After a hearing on each appeal, the Law Court concluded the appeal was frivolous and imposed sanctions on Lefebvre pursuant to M.R. Civ. P. 76(f). Prior to the hearing on this matter, the parties had stipulated to the following:

On July 21, 1994, Bar Counsel for the State of Maine initiated a grievance complaint against Lefebvre for filing of appeals, in the case of Rice v. Lefebvre, that were deemed frivolous by the Law Court. In Complaint No. GFC 94-K-138, Bar Counsel stated that Lefebvre's actions appeared to violate Maine Bar Rules 3.1(a) (conduct unworthy of an attorney); 3.2(f)(4) (conduct prejudicial to the administration of justice); and 3.7(a) (filing suit or taking other action that would serve merely to harass or maliciously injure another).

On November 16, 1994, in GFC No. 94-K-138, Panel B of the Grievance Commission found (a) that Lefebvre had committed a "minor violation" of Rule 3.7(a) in that Lefebvre's appeals caused injury to the legal system; (b) that such action constituted only "minor misconduct;" and (c) that the Commission imposed a "dismissal with a warning" because "there was little or no injury to the public, the legal system, or the profession" and "little likelihood of repetition by the Respondent."

Lefebvre has filed no appeals since November 16, 1994.

There is no provision for review for review of this decision by the Court.

lots had been the basis for litigation since the early 1980s.

(3) It is undisputed that the amount of the judgment imposed on Lefebvre in the matter of *Rice v. Lefebvre, et al.*, bearing Docket No. CV-90-838, York County, has been paid in full.

(4) On May 1, 1995, Lefebvre wrote a letter to Harry B. Center II, Esq., "Re: Board of Zoning Appeals, City of Biddeford,"² with a notation that copies of the letter had been sent to "Sen. Jeffrey Butland, without Exhibits; Sen. Peter Mills, without Exhibits; Sen John Hathaway, without Exhibits; Sen. Jane Amero, without Exhibits; Gov. Angus King, without Exhibits; Hon. Andrew Ketterer, WITH Exhibits; Hon. James Grattelle [sic], Mayor, City of Biddeford, WITH Exhibits; Mr. Marc Simard,³ without Exhibits," that stated in part:

S. James Levis, Jr. Esq. has really been stalking my wife and me for at least 10 years. I have approached members of the current legislation [sic] in addition to the Governor and the Attorney-General concerning the numerous problems caused by Mr. Levis. expecially [sic] his continuing efforts to harass us and to attmpt [sic] to take our property rights at Hoyt Neck. It is my conclusion that there is a developing law theory which can be called LEGAL STALKING based on Mr. Levis' contiuing [sic] representation of the abutters. As you make your findings it should be determined whether he also represents the Hoyt Neck Association.

Mr. Levis' actions bear many resemblances to the current Oklahoma City bombing. I am a retired federal employee. My wife and I are asking ourselves whether our lives are in danger as the result of Mr. Levis' conduct. . . .

² Harry B. Center, II, was identified as the City Attorney for Biddeford in Lefebvre's letter dated June 21, 1995.

³ Marc Simard was identified in this letter as being the Building Inspector for Biddeford.

(5) On May 16, 1995, Levis wrote a letter to Bar Counsel, J. Scott Davis, that enclosed a copy of Lefebvre's letter of May 1, 1995, and, *inter alia*, expressed his willingness to discuss the contents of the Lefebvre letter with Bar Counsel on request.

(6) Lefebvre wrote a letter to "Honorable Andrew Ketterer, Attorney-General," dated June 21, 1995, with the notation that copies had been sent to "Sen. Jeffrey Butland, Sen. Peter Mills, Sen. John Hathaway, Sen. Jane Amero, Gov. Angus King, and Hon. James Grattello", that stated in part:

This is a formal request for an investigation by your office into the matters brought to your attention in my letter dated January 24, 1995⁴ to you and other public officials.

The information contained in the January letter was supplemented by documentation attached to a May 1, 1995 letter to the Biddeford City Attorney. As of this date he did not respond to my letter. It is identified as Exhibit # 27 in this developing major case. A copy of the May 1 letter together with the Exhibits #1 through # 26 were forwarded to you.

....

It has been suggested that the "Punishment Order" of Justice Fritzsche bears the marks of a pay off. The Order is primarily a payment to the opposing attorney, James Levis, Jr. Esq. whose law firm represented both, the Plaintiff Rice and the City of Biddeford, and does not cite constitutional or case law. Although a Motion was filed with the Superior Court, the conflict of interest issues were not addressed by the Superior Court and the Maine Supreme Judicial Court. The matter of the financial punishment should be investigated and reverse as in the best interest of all Maine citizens. Otherwise its chilling effects is a first step to dictatorship and the abolishment of the Constitution.

⁴ The letter of January 24, 1995, referred to is not before the Court.

(7) Although the letter dated May 1, 1995, was written on stationery with a letterhead identifying Lefebvre as an "Attorney at Law," the stationery used for the letter dated June 21, 1995, as in the May 1st letter, set forth the same name and address but did not identify Lefebvre as an "Attorney at Law."

DISCUSSION AND CONCLUSION

In the course of the hearing and in his final summation, Lefebvre contends that Maine Bar Rule 3.2(e)(1) does not confine the report of attorney misconduct exclusively to the Board, and accordingly, his letters to the Attorney General were not in violation of that Rule, but were within the purview of 4 M.R.S.A. § 851 (1989) that provides, in pertinent part:

Whenever an information is filed in the office of the clerk of courts in any county by the Attorney General, or by a committee of the State Bar Association, or by a committee of the bar or bar association of such county, charging that an attorney at law has conducted himself in a manner unworthy of an attorney .

...

Further, that the letter of June 21, 1995, was not his own opinion but the reporting of a "suggestion" that had been made to him by a Boston attorney, to whom he had forwarded a copy of the judgment in *Rice v. Lefebvre*, that Justice Fritzsche's award of damages and penalties was so oppressive as to indicate some financial impropriety and ought to be investigated. Finally, as to both letters, Lefebvre contends that the Board failed to prove he violated the Maine Bar Rules because the communications are protected by the right to petition provided in Art. I, § 15 of the Maine Constitution and the freedom of speech provisions of the United States and Maine Constitutions,

and accordingly, he cannot be sanctioned by the Court.

With regard to both letters as they relate to Levis, the Court agrees with Lefebvre that the language "shall report such knowledge to a tribunal or other authority empowered to investigate or act upon such violation" contained in Maine Bar Rule 3.2(e)(1) does not require that a report of attorney misconduct be exclusively to the Board. Although 4 M.R.S.A. § 851 authorizes the Attorney General to file an information against an attorney, the investigation of alleged misconduct is not addressed by statute. Maine Bar Rule 5(b)(1) provides, "Bar Counsel shall investigate all matters involving alleged misconduct by an attorney subject to these rules." If, however, the alleged misconduct by an attorney is in violation of a criminal statute, it may be reported to and investigated by the Attorney General or the District Attorney for the district in which the alleged misconduct occurred. The Court, however, knows of no rule or statute, and Lefebvre points to none, that authorizes a city attorney, a mayor or building inspector of a town or municipality, the Governor, or a member of the Legislature to investigate or act on the alleged misconduct of an attorney. The law is well established that to discipline or remove attorneys at law for misconduct is an inherent "authority and power . . . possessed by the Supreme Judicial Court in this state from its inception." *Barnes v. Walsh*, 145 Me. 107, 110 (1950).

Relative to the contents of the letter of June 21, 1995, relating to Justice Fritzsche, the Court is cognizant that 4 M.R.S.A. § 9-B (1989 & Supp. 1996), enacted by P.L. 1977, ch. 638, provides:

The Supreme Judicial Court has the power and authority

to prescribe, repeal, add to, amend or modify rules relating to a committee to receive complaints, make investigations and make recommendations to the Supreme Judicial Court in regard to discipline, disability, retirement or removal of justices of the Supreme Judicial Court and the Superior Court and judges of the District Court, the probate courts and the Administrative Court.

By its order, effective July 5, 1978, the Supreme Judicial Court established the Committee on Judicial Responsibility and Disability and set forth the Rules governing that Committee. Rule 1 provides, *inter alia*, that complaints of judicial misconduct and disability shall be made to that Committee in writing and shall be signed by the complainant and that the Committee may conduct such investigation of the matter as it deems appropriate. Rule 2 provides, *inter alia*, that if the Committee decides that a charge has been established it shall report its decision to the Supreme Judicial Court. Rule 3 provides, *inter alia*, that all further proceedings shall be before the Supreme Judicial Court. *See Matter of Benoit*, 487 A.2d 1158, 1170-71 (Me. 1985) (setting forth grounds on which the power, authority and jurisdiction of the Supreme Judicial Court concerning judicial misconduct rests, including the inherent common law and the constitutional and statutory powers of the Court).

The Court is also cognizant of those provisions in the Maine Constitution addressing judicial misconduct. Art. VI, § 4 provides, in pertinent part, that “[a]ll judicial officers appointed by the Governor shall hold their offices for the term of 7 years from the time of their respective appointments (unless sooner removed by impeachment or by address of both branches of the Legislature to the executive” *See Opinion of the*

Justices, 343 A.2d 196, 203 (Me. 1975) (Persons whose tenure of office fixed by Constitution may be removed only by methods authorized by Constitution). Art. IX, § 5 provides, *inter alia*, that “before such address shall pass either House, the causes of removal shall be stated and entered on the journal of the House in which it originated, and a copy thereof served on the person in office, that he may be admitted to a hearing in his defense.” Art. IV, Pt. 2, § 7 provides that “[t]he Senate shall have the sole power to try all impeachments Their judgment, however, shall not extend farther than to removal from office” Although there is no constitutional or statutory provision articulating what conduct may be “a cause of removal” of a judge, other than “misdemeanor in office,” *see* Art. IX, § 5, some information in that regard can be gleaned from the Court’s discussion in *Moulton v. Scully*, 111 Me. 428, 89 A. 944 (1914) (removal of a sheriff from office). *See also Ex parte Davis*, 41 Me. 38 (1856) (discussion of respective rights and duties of the three branches of government relative to removal of a judge, arising from allegation that Governor removed associate justice of the Supreme Judicial Court in an unconstitutional manner). Art. III, § 2 provides that “[n]o person or persons, belonging to one of these departments, shall exercise any of the powers properly belonging to either of the others, except in the cases herein expressly directed or permitted.” As with an attorney, if the alleged misconduct of a judge is in violation of a criminal statute it can appropriately be reported to and investigated by the Attorney General or the District Attorney of the district where the alleged offense occurred.

As evidenced by these authorities, there is no constitutional, common law or statutory provisions known to the Court, and Lefebvre cites none, that authorizes the mayor of a municipality to be implicated in the investigation or processing of a complaint concerning a judge or in the imposition of sanctions or the removal of that judge from office.

Based on all these authorities, the Court determines, contrary to Lefebvre's contention, that neither his letter of May 1, 1995, or his letter of June 21, 1995, is protected from the processes of the Court by Art. I, § 15 of the Maine Constitution.

Attorneys are officers of the court and constitute an important part of the judicial system. The power to regulate and define the practice of law, including the admission, disbarment, suspension and sanctioning of an attorney, belongs to the judicial department. *Board of Overseers of Bar v. Lee*, 422 A.2d 998, 1002 (Me. 1980), *appeal dismissed*, 450 U.S. 1036, 101 S. Ct. 1751, 68 L. Ed.2d 233 (1981).

The Maine Bar Rules were promulgated by the Supreme Judicial Court to be effective November 1, 1978. "The Supreme Court in its rulemaking capacity binds not only the bar and all other courts; these rules also have the full force of law in [the Law Court's] deliberations" *Anderson v. Elliott*, 555 A.2d 1042, 1047-48 (Me. 1989), *cert. denied*, 493 U.S. 978, 110 S. Ct. 504, 107 L. Ed.2d 507. However, the fact that the present information relates alleged instances of professional misconduct to certain Maine Bar Rules does not confine the Court's consideration to those Rules. The Court may determine whether the alleged conduct violates acceptable standards of

behavior apart from violation of some disciplinary rule. *In re Dineen*, 380 A.2d 603, 604 (Me. 1977).

One of the requirements for admission to practice law in this State set forth in 4 M.R.S.A. § 805-A (1989 & Supp. 1996) is that the applicant produce satisfactory evidence of good moral character. Over a century ago in *Penobscot Bar v. Kimball*, 64 Me. 140 (1875), the Law Court addressed the importance of "good moral character" not only as a prerequisite to the admission to practice law but the necessity for its continuance throughout the period of time the lawyer is engaged in the practice of law. The Court stated:

The statute makes "a good moral character" a condition precedent to his admission to the bar. By his admission the court hold him out to the public as worthy of public confidence and patronage. Upon this indorsement by the court the public have a right to rely, and to presume that his moral character continues to stand approved by the court. If "a good moral character" is indispensable to entitle one to admission to the bar, it is obvious that the necessity for its continuance becomes enhanced by the conflicts, excitements and temptations to which the practitioner is daily liable.

. . . .

It is a mistaken view of this subject . . . to conclude that an attorney at law can only be disbarred for acts done "in his office as attorney," or "within the courts," in the terms of his oath of office. On the contrary an attorney may be guilty of . . . practices . . . in his private capacity and without the pale of the court, which . . . disqualify him for the faithful discharge of his professional duties in or out of court, and render him unworthy to minister in the forum of justice. When such a case arises from whatever acts or causes, the cardinal condition of the attorney's admission to the bar, the possession of "a good moral character," is forfeited, and it will become the solemn duty of the court upon a due presentment of the case to revoke the authority it gave the offending member as a symbol of legal fitness and moral uprightness

Id. at 146-48.

The Law Court, in considering the prerequisite of “good moral character” for admission to the Bar, has also stated that “[t]urbulent, intemperate or irresponsible behavior is a proper basis for the denial of admission to the bar.” *Application of Feingold*, 296 A.2d 492, 500 (Me. 1972).

Applying these principles to the conduct of Lefebvre manifested by the letters of May 1, 1995, and June 21, 1995, the Court concludes that Lefebvre misconstrues the protection of that conduct by the freedom of speech provisions contained in the federal and state constitutions. Lefebvre offers no evidence to support the truth of the contents of these letters. The Court finds that the Board has established by a preponderance of the evidence that Lefebvre’s conduct as manifested by the letters at issue was both intemperate and irresponsible. This conduct reflects a violation of the basic requirement that Lefebvre maintain “good moral character” and that he not engage in conduct unworthy of an attorney throughout the period he is engaged in the practice of law in this State.

SANCTIONS

In considering the imposition of sanctions, if any, to be imposed in this case, the Court has considered all the evidence before it and concludes that the appropriate sanction is the suspension of Albert P. C. Lefebvre from the practice of law in this State for a period of eight (8) months.

Accordingly, it is hereby ORDERED,

Albert P. C. Lefebvre is suspended from the practice of law in the State of Maine for a period of eight (8) months, effective thirty (30) days from the date of this order.

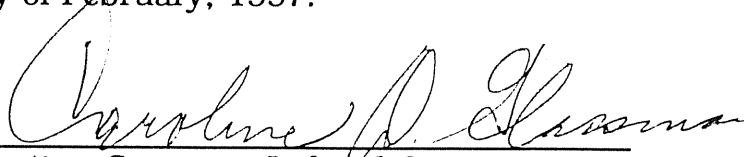
It is further ORDERED,

Albert P. C. Lefebvre shall comply with the notification requirement of Maine Bar Rule 7.3(i)(1) within thirty (30) days of the date of this order, and within such period of time he shall pay to the Board of Overseers of the Bar the sum of Five Hundred Eighty Five Dollars and Fifty Cents (\$585.50), representing the actual costs to the Board for the investigation and prosecution of this information, which the Court finds to be a reasonable amount for such costs.

It is further ORDERED,

Albert P. C. Lefebvre shall comply with Maine Bar Rule 7.3(j)(5) as a condition for his reinstatement for the practice of law in the State of Maine.

Dated at Portland, Maine, this 3rd day of February, 1997.


Justice, Supreme Judicial Court